

REMARKS

Claims 1-2, 4-14, 16 and 17 are now pending in the application. Claim 1 is amended herein. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 1-2 and 4-11 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Claim 1 is amended herein. It is believed that this amendment has rendered the rejection moot. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-2, 4, 6-8 and 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomoyoshi (JP 317,946) in view of Miura (U.S. Pat. No. 6,708,931). Claims 5 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomoyoshi in view of Miura and in further view of Kraus (U.S. Pat. No. 5,947,426). These rejections are respectfully traversed.

Applicant submits that the Miura reference does not qualify as prior art under 35 U.S.C. § 102(a), (b), or (e). The present application is a continuation of international patent application PCT/EP02/10008 filed on September 6, 2002 which designates the United States and was published in German, and which claims priority of German patent application 101 44 153.3 filed September 7, 2001. However, the Miura reference

was issued on March 23, 2004 and was previously published as an application on July 24, 2003. As neither of these dates are before the filing date to which the present application claims priority, Applicant submits the Miura reference does not qualify as prior art under 35 U.S.C. § 102(a) or (b). Furthermore, the earliest U.S. filing date of the Miura reference is December 31, 2002, which is the effective filing date of the reference under 35 U.S.C. § 102(e). As this date is also not before the filing date to which the present application claims priority, the Miura reference does not qualify as prior art under 35 U.S.C. § 102(e). Accordingly, withdrawal of the rejections is respectfully requested.

Applicant further submits that the combination of Tomoyoshi and Miura fails to disclose or otherwise suggest all of the subject matter of Claim 1. Claim 1 calls for a retaining clip “having a pair of partitions between two such receivers . . . wherein an elbow is disposed between the first and second latching fingers and the partitions so the partitions are displaced relative to each other.” As stated in the specification of the application:

The partitions 4, 4' are elbowed, wherein the depth T of the elbow corresponds approximately to the material thickness of the latching fingers 5, 6. During introduction of the article 2 the elbow provides the latching finger 5, 6 with enough space to yield upon elastic deformation of the latching finger 5, 6.

See at least lines 1-4 of paragraph [0029] of the present application.

The Office Action states that the Miura reference teaches a partition elbowed between offset latching fingers. However, Applicant respectfully submits that the Miura reference teaches a single partition as opposed to a pair of partitions. Further, the Miura reference does not teach that the partitions are offset with respect to each other and separated by an elbow as called for in Claim 1. Moreover, as the Miura reference

does not teach partitions offset by an elbow, the Miura reference does not teach an elbow having a depth corresponding approximately to the material thickness of latching fingers and providing space for elastic deformation of latching fingers.

For these additional reasons, Claim 1 is believed to be distinguished from the reference and in condition for allowance. Additionally, Claims 2 and 4-11 depend from Claim 1 and, therefore, for at least the reasons stated above with regard to Claim 1, should also be in condition for allowance. Accordingly, withdrawal of the rejections is respectfully requested.

Claims 12, 14 and 16-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomoyoshi in view of Hahn (U.S. Pat. No. 6,565,049). Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomoyoshi in view of Hahn and in further view of Miura. These rejections are respectfully traversed.


Applicant submits that the Hahn reference does not qualify as prior art under 35 U.S.C. § 102(a), (b), or (e). The Hahn reference was issued on May 20, 2003 and was previously published as an application on July 11, 2002. As neither of these dates are before the filing date to which the present application claims priority, the Hahn reference does not qualify as prior art under 35 U.S.C. § 102(a) or (b). Furthermore, the earliest U.S. filing date of the Hahn reference is January 3, 2002, which is the effective filing date of the reference under 35 U.S.C. § 102(e). As this date is also not before the filing date to which the present application claims priority, the Hahn reference does not qualify as prior art under 35 U.S.C. § 102(e). Accordingly, withdrawal of the rejections is respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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